

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

INDYMAC BANK, F.S.B.,

Plaintiff,

– against –

NATIONAL SETTLEMENT AGENCY, INC.;
STEVEN M. LEFF; RACHEL M. LEFF;
RICHARD A. LEFF; JOHN DOES 1–100,

Defendants.

Case No.: 07 cv 6865 (LTS)

**DECLARATION OF DAVID J.
GALALIS IN SUPPORT OF
ORDER OF ATTACHMENT,
TEMPORARY RESTRAINING
ORDER, PRELIMINARY
INJUNCTION, AND ORDER
ALLOWING EXPEDITED THIRD-
PARTY DISCOVERY**

David J. Galalis, pursuant to 28 U.S.C. § 1746, declares and states under penalty of perjury as follows:

1. I am an associate with Feldman Weinstein & Smith LLP, attorneys to plaintiff IndyMac Bank, F.S.B. (“IndyMac”). I submit this declaration in support of IndyMac’s motion by order to show cause for an order of attachment, temporary restraining order, preliminary injunction, and order allowing expedited third-party discovery.

2. A copy of a proposed order of attachment is attached hereto as **Exhibit A**.

3. Notice of this application for a temporary restraining order has not been given to the named defendants because of IndyMac’s belief that if such notice were given, the named defendants would take efforts to further secrete and hide the \$2.3 million entrusted to them by IndyMac for purposes of residential real estate mortgage closings. As demonstrated by the Affidavit of Nicholas J. Nyland sworn to on August 1, 2007, the named defendants have already frustrated IndyMac’s efforts to obtain information regarding the whereabouts of IndyMac’s

money; a reasonable inference can therefore be made that the named defendants are not acting in good faith, and will take any opportunity given to further frustrate IndyMac's collection efforts.

4. Similar relief to that requested here has previously been granted by the Eastern District in the similar (now closed) case of *Encore Credit Corp v. Joseph LaMattina, et al.*, 05-cv-5442 (CPS). The Complaint, Order to Show Cause, and Order of Attachment in that case are attached as **Exhibit B**.

5. It appears that Steven M. Leff is the President of National Settlement Agency, as indicated by a LexisNexis business entity search. **Exhibit C**.

6. It appears that Rachel M. Leff is the Chief Executive Officer of National Settlement Agency, as indicated by a LexisNexis business entity search, and the New York Department of State's corporate search page. **See Exhibits C and D**.

7. It appears that Rachel M. Leff uses her home at 15 Anvil Ct., East Hampton, NY, to run closings for National Settlement. This is demonstrated by a webpage on National Settlement Agency's website (www.collateralfile.com) that indicates 15 Anvil Ct., East Hampton, NY as an office location. **See Exhibit E**.

8. It appears that Richard A. Leff is legal counsel to National Settlement Agency, as follows:

- a. Richard A. Leff is listed by the Unified Court System Website as having his law offices at 404 Park Ave South, 5th Floor, New York (**Exhibit F**), the same address as National Settlement Agency;
- b. www.closingrocket.com—a website that appears to be a D/B/A for National Settlement Agency because it is the first listing when doing an internet search on

www.google.com for “National Settlement Agency, Inc.”—lists Richard Leff as the attorney in charge of title issues. **Exhibit G.**

9. An order allowing expedited third-party discovery is needed so that IndyMac may immediately serve subpoenas upon third parties having knowledge of, among other things, the whereabouts of IndyMac’s money that it entrusted to National Settlement Agency, attachable assets owned by the defendants, and the identity of other responsible parties. This information will aid IndyMac in locating its stolen funds and preventing further dissipation of the defendants’ assets in frustration of IndyMac’s potential judgment.

10. A prior request for an *ex-parte* order of attachment was made on August 2, 2007, before Judge George B. Daniels; Judge Daniels denied that request, without prejudice, with leave to re-move before Judge Laura T. Swain. Because IndyMac has been informed that Judge Swain is on vacation until August 20, 2007, IndyMac is now re-moving for an order of attachment, on notice, before Judge Daniels. The affidavit of Nicholas J. Nyland dated August 1, 2007 was executed before this fact, and therefore, paragraph 12 does not reflect this prior request for relief.

WHEREFORE, it is respectfully requested that this court grant IndyMac’s application for an order of attachment in the amount of \$2,349,150 plus interest, costs, fees and disbursements, together with a temporary restraining order, preliminary injunction, an order allowing expedited third-party discovery, and any other relief this court deems proper.

Dated: New York, New York
August 6, 2007

FELDMAN WEINSTEIN & SMITH LLP
Attorneys for IndyMac Bank, F.S.B.

By: 

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